



**REQUEST FOR QUALIFICATIONS  
LEGAL SERVICES (INVESTMENTS COUNSEL)  
RFQ NUMBER: 07-08**

**RELEASE DATE: JULY 23, 2007**

**DEADLINE FOR INQUIRIES: AUGUST 6, 2007 3:00 P.M. EDT  
DEADLINE FOR SUBMISSION: AUGUST 24, 2007 3:00 P.M. EDT**

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**INDIANA PUBLIC EMPLOYEES' RETIREMENT FUND  
LEGAL SERVICES (INVESTMENTS COUNSEL)  
RFQ NUMBER: 07-08**

**SECTION ONE  
GENERAL INFORMATION**

**1.1 INTRODUCTION**

The Indiana Public Employees' Retirement Fund ("PERF") is soliciting qualifications from all respondents who wish to be considered as a provider of the legal services described in Exhibit A, Scope of Work. Neither this RFQ nor any response (proposal) submitted hereto are to be construed as a legal offer.

PERF is a non-profit quasi-state organization that was formed in 1945 as a result of legislative action. The purpose of PERF is to administer pensions for all State of Indiana employees and the employees of participating political subdivisions. PERF provides service to the members and their employers for all of the pension funds administered by PERF, having as its goal the accurate accumulation of data and funds in order to provide correct and prompt retirement benefits. PERF administers six funds, serving approximately 173,000 active members and 62,000 benefit recipients. The total asset value of the funds managed by PERF as of March 31, 2007, was \$16.4 billion. More information regarding PERF can be found at the website: [www.perf.in.gov](http://www.perf.in.gov).

**1.2 DEFINITIONS AND ABBREVIATIONS**

Following are explanations of terms and abbreviations appearing throughout this RFQ. Other special terms may be used in the RFQ, but they are defined where they appear, rather than in the following list.

Board	Board of Trustees of PERF.
IAC	The Indiana Administrative Code.
IC	The Indiana Code.
PERF	Indiana Public Employees' Retirement Fund
Proposal	An offer.
Respondent	An offeror who submits a proposal.
Services	Work to be performed as specified in this RFQ.
Vendor	Any successful respondent selected as a result of the procurement process to deliver services requested by this RFQ.

### **1.3 ISSUER**

In accordance with Indiana statutes governing the administration of PERF, PERF has issued this RFQ. The staff of PERF has prepared the content of the RFQ. One (1) copy of this RFQ may be provided free of charge from PERF or a copy may be obtained from PERF's contracts website at: (<http://www.in.gov/perf/agency/contracts.html>). A nominal fee will be charged for providing additional hard copies.

### **1.4 DUE DATE AND FORMAT FOR PROPOSALS**

All proposals must be received at the address below no later than August 24, 2007, at 3:00 P.M., EDT. The exterior of the box containing the responses should be clearly marked with RFP 07-08 Legal Services Investment Counsel. Each respondent must submit one original (marked "Original"), one copy of the proposal in CD ROM format, and five copies of their proposal, including the transmittal letter and other related documentation as required in Sections 4.2 and 4.3 of this RFQ. The proposals must be addressed/delivered to:

Rebecca Cook  
Procurement Officer  
Indiana Public Employees' Retirement Fund  
143 W. Market Street  
Indianapolis, IN 46204

Any proposal received after the due date and time will not be considered. Any late proposals will be returned, unopened, to the respondent, upon request, within thirty (30) days of filing.

### **1.5 MODIFICATION OR WITHDRAWAL OF OFFERS**

Responses to this RFQ may be modified or withdrawn in writing or by fax notice received prior to the date specified for receipt of proposals. The respondent's authorized representative may also withdraw the proposal in person, providing his or her identity is made known and he or she signs a receipt for the proposal. Proposals may not be withdrawn after the proposal due date has passed.

Modification to or withdrawal of a proposal received after the date specified for receipt of proposals will not be considered. If it becomes necessary to revise any part of this RFQ or if additional data is necessary for an exact interpretation of provisions of this RFQ prior to the due date for proposals, a supplement will be posted by PERF on its website (<http://www.in.gov/perf/agency/contracts.html>). If such addenda issuance is necessary, PERF reserves the right to extend the due date of proposals to accommodate such interpretations or additional data requirements.

## **1.6 JOINT BIDS / SUBCONTRACTING**

PERF will not entertain joint bids.

Although PERF anticipates that any respondent submitting a proposal will provide the major portion of the services as requested, subcontracting by the respondent is acceptable in performing the requirements of this RFQ. However, the respondent must obtain the approval of PERF before subcontracting any portion of the project's requirements. The respondent is responsible for the performance of any obligations that may result from this RFQ and shall not be relieved by the non-performance of any subcontractor. Any respondent's proposal must identify all subcontractors and outline the contractual relationship between the respondent and each subcontractor. Either a copy of the executed subcontract or a letter of agreement over the official signature of the firms involved must accompany each proposal.

Any subcontracts entered into by the respondent must be in compliance with all State of Indiana statutes and be subject to the provisions thereof. For each portion of the proposed services to be provided by a subcontractor, the technical proposal must include the identification of the functions to be provided by the subcontractor and the subcontractor's related qualifications and experience.

The combined qualifications and experience of the respondent and any or all subcontractors will be considered in PERF's evaluation. The respondent must furnish information to PERF as to the amount of the subcontract, the qualifications of the subcontractor for guaranteeing performance, and any other data that may be required by PERF. All subcontracts held by the respondent must be made available upon request for inspection and examination by appropriate PERF officials and such relationships must meet with the approval of the PERF.

## **1.7 CONFIDENTIAL INFORMATION**

Respondents are advised that materials contained in proposals are subject to the Indiana Public Records Act, IC 5-14-3 et seq., and, after the contract award, may be viewed and copied by any member of the public, including news agencies and competitors. Respondents claiming a statutory exception to the Indiana Public Records Act must place all confidential documents (including the requisite number of copies for each proposal) in a sealed envelope clearly marked "Confidential" and must indicate in the transmittal letter and on the outside of that envelope that confidential materials are included. It is advisable that each page within the "Confidential" documentation contain some indication of its confidential nature. The respondent must also specify which statutory exception provision applies.

PERF reserves the right to make determinations of confidentiality. If PERF does not agree that the information designated is confidential under one of the disclosure exceptions to the Indiana Public Records Act, it may either reject the proposal or discuss its interpretation of the allowable exceptions with the respondent. If agreement can be reached, the proposal will be considered. If agreement cannot be reached, PERF will remove the proposal from consideration for award and return the proposal to the respondent. PERF will not determine prices to be confidential information.

## **1.8 RFQ RESPONSE COSTS**

PERF accepts no obligations for costs incurred by respondents in anticipation of being awarded a contract.

## **1.9 PROPOSAL LIFE**

All proposals made in response to this RFQ must remain open and in effect for a period of not less than 180 days after the due date for proposals. Any proposal accepted by PERF for the purpose of contract negotiations shall remain valid until superseded by a contract or until rejected by PERF.

## **1.10 TAXES**

PERF is exempt from federal, state, and local taxes. PERF will not be responsible for any taxes levied on the respondent as a result of any contract resulting from this RFQ.

## **1.11 SECRETARY OF STATE REGISTRATION**

Before an out-of-state respondent can do business with PERF, the respondent must be registered with the Indiana Secretary of State. If an out-of-state respondent does not have such registration at present, the respondent should contact

Secretary of State of Indiana  
Corporation Division  
402 West Washington Street, E018  
Indianapolis, IN 46204  
(317) 232-6576

for the necessary registration application form, or it can be accessed via the internet at <http://www.in.gov/icpr/webfile/formsdiv/38784.pdf>. It is each respondent's responsibility to register prior to the initiation of any contract discussions.

## **1.12 DISCUSSION FORMAT**

PERF reserves the right to request clarifications on proposals submitted to PERF. PERF also reserves the right to conduct proposal discussions, either oral or written, with those respondents determined by PERF to be reasonably viable to being selected for award. These discussions could include requests for additional information, request for cost or technical proposal revision, etc. Additionally, in conducting discussions, PERF may use information derived from proposals submitted by competing respondents only if the identity of the respondent providing the information is not disclosed to others. PERF will provide equivalent information to all respondents which have been chosen for discussions. Discussions, along with negotiations with responsible respondents may be conducted for any appropriate reason.

### **1.13 COMPLIANCE CERTIFICATION**

Responses to this RFQ serve as a representation that it has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana, and it agrees that it will immediately notify PERF of such actions. The Respondent also certifies that neither it nor its principals are presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Respondent agrees that PERF may confirm, at any time, that no such liabilities exist, and, if such liabilities are discovered, that PERF may bar the Respondent from contracting with PERF, cancel existing contracts, withhold payments to setoff such obligations, and withhold further payments or purchases until the entity is current in its liability to the State of Indiana and has submitted proof of such payment to the State.

### **1.14 SUMMARY OF MILESTONES**

The following is the expected timeline for the RFQ.

<u>ACTIVITY</u>	<u>EXPECTED DATE</u>
RFQ published/released	July 23, 2007
Respondent's inquiry period ends	August 6, 2007 3:00 P.M. EDT
Proposal submission date	August 24, 2007 3:00 P.M. EDT
Discussions and or site visits	Week of August 27, 2007 (if necessary)
Selection of vendor	Week of September 3, 2007

## **SECTION TWO PROPOSAL PROCEDURES**

### **2.1 CONTACTS**

Inquiries are not to be directed to any staff or Board member of PERF, except as outlined in Section 2.3. Such unauthorized communication(s) may disqualify respondent from further consideration. The Fund reserves the right to discuss any part of any response for the purpose of clarification. Respondents will be given equal access to any communications about the request for proposal between the Fund and other respondents.

### **2.2 PRE-PROPOSAL CONFERENCE**

It is the decision of PERF that no pre-proposal conference is required for this RFQ.

### **2.3 INQUIRIES ABOUT THE RFQ**

All inquiries and requests for information affecting this RFQ must be submitted in writing by e-mail to:

Rebecca Cook  
Procurement Officer  
[rcook@perf.state.in.us](mailto:rcook@perf.state.in.us)

no later than August 6, 2007, 3:00 P.M. EDT. PERF reserves the right to judge whether any questions should be answered in writing and copies will be distributed to all prospective respondents who are known to have received a copy of the original RFQ.

If it becomes necessary to revise any part of this RFQ, or if additional information is necessary for a clearer interpretation of provisions of this RFQ prior to the due date for proposals, an addendum will be posted to the PERF website. If such addenda issuance is necessary, the Procurement Officer may extend the due date and time of the proposals to accommodate such additional information requirements, if required.

### **2.4 RESPONDENT SITE VISITS**

PERF may request a site visit to a respondent's working support center to aid in the evaluation of the respondent's proposal.

### **2.5 CONTRACT AWARD**

Based on the results of this process, the qualifying proposal determined to be the most advantageous to PERF, taking into account all of the evaluation factors, may be selected by PERF for further action, such as contract award. If, however, PERF decides that no proposal is sufficiently advantageous to PERF, PERF may take whatever further action is deemed best in its sole discretion, including making no contract award. If, for any reason, a proposal is selected and it is not possible to consummate a contract with the respondent, PERF may begin contract preparation with the next qualified respondent or determine that it does not wish to award a contract pursuant to this RFQ.



PERF reserves the right to reject any or all proposals received or to award, without discussions or clarifications, a contract on the basis of proposals received. Therefore, each proposal should contain the respondent's best terms from a price and technical standpoint.

The Executive Director or his/her designee(s) will, in the exercise of his/her sole discretion, determine which proposal(s) offer the best means of servicing the interests of the Fund. The exercise of this discretion will be final.

**SECTION THREE**  
**LENGTH OF CONTRACT AND PRICING**

**3.1      LENGTH OF CONTRACT**

The term of the contract entered into under this RFQ shall be for a period of one (1) year, beginning from date of final execution of contract. There may be up to four (4) one-year renewal periods under the same terms and conditions at PERF's option. Total contract period shall not exceed five (5) years.

**3.2      PRICING**

PERF requests the pricing associated with this RFQ be a firm proposal price that must remain open and in effect for a period of not less than 180 days from the proposal due date.

## **SECTION FOUR PROPOSAL PREPARATION INSTRUCTIONS**

### **4.1 GENERAL**

To facilitate the timely evaluation of proposals, a standard format for proposal submission has been developed and is documented in this section. All respondents are required to format their proposals in a manner consistent with the guidelines described below:

1. Each item must be addressed in the respondent's proposal or the proposal may be rejected.
2. The transmittal letter should be in the form of a letter. The business proposal must be organized under the specific section titles as listed below.
3. PERF may, at its option, allow all respondents a five-calendar-day period to correct errors or omissions to their proposals. Should this necessity arise, PERF will contact each respondent affected. Each respondent must submit written corrections to the proposal within five calendar days of notification. The intent of this option is to allow proposals with only minor errors or omissions to be corrected. Major errors or omissions, such as the failure to include prices, will not be considered by PERF as a minor error or omission and may result in disqualification of the proposal from further evaluation.

#### **A complete proposal will include the following:**

1. Hard copy submission of a transmittal letter (with the information in Section 4.2)
2. Hard copy submission of a Business Proposal (with the information and attachments described in Section 4.3)
3. Original, five copies, and CD ROM of entire proposal as outlined in Section 1.4

### **4.2 TRANSMITTAL LETTER**

The Transmittal Letter must address the following topics:

#### **4.2.1 Identification**

The transmittal letter must first identify the RFQ.

#### **4.2.2 Summary of Ability and Desire to Supply the Required Services**

The transmittal letter must briefly summarize the respondent's ability to supply the requested services. The letter must also contain a statement indicating the respondent's willingness to provide the requested services subject to the terms and conditions set forth in the RFQ including, but not limited to, PERF's standard contract clauses.

#### 4.2.3 Signature of Authorized Representative

A person authorized to commit the respondent to its representations must sign the transmittal letter. Respondent personnel signing the transmittal letter of the proposal must be legally authorized by the organization to commit the organization contractually. This section must contain proof of such authority. A copy of corporate bylaws or a corporate resolution adopted by the board of directors indicating this authority will fulfill this requirement.

#### 4.2.4 Respondent Notification

Unless otherwise indicated in the Transmittal Letter, respondents will be notified by via e-mail and must include the appropriate contact email address.

#### 4.2.5 Other Information

Any other information the respondent may wish to briefly summarize will be acceptable.

### 4.3 BUSINESS PROPOSAL

The Business Proposal must contain the following items:

#### 4.3.1 Ability to Perform Scope of Work

Respondent should demonstrate in this section its ability to meet the requirements set forth in Exhibit A, Scope of Work.

#### 4.3.2 Respondent's Company Structure

The legal form of the Respondent's business organization, the state in which formed (accompanied by a certificate of authority), the types of business ventures in which the organization is involved, and an organizational chart are to be included with this section. If the organization includes more than one product division, the division responsible for the development and marketing of the requested products and/or services in the United States must be described in more detail than the other components of the organization.

#### 4.3.3 Integrity of Company Structure and Financial Reporting

This section must include a statement indicating that the CEO and/or CFO has taken personal responsibility for the thoroughness and correctness of any/all financial information supplied with this proposal. The particular area of interest to PERF in considering corporate responsibility include the following items: separation of audit functions from corporate boards and board members, if any, the manner in which the organization assures board integrity, and the separation of audit functions and consulting services. PERF will consider the information offered in this section to determine the responsibility of the Respondent under IC 5-22-16-1 (d).

#### 4.3.4 Contract

Exhibit C is the base contract that will be used if an award is made. Any or all portions of this document are incorporated by reference as an addendum to the final contract. **If Respondent wants to include or change any term of the contract, it must be submitted as an amendment to the contract.** See the next section for more instructions on this.

#### 4.3.5 Respondent Contract Requirements

**If the Respondent wishes to include or change any language in the contract being submitted, proposed language should be included in this section in the form of an amendment to the contract.** For each change included, the Respondent should indicate that the change is required by the Respondent in any contract resulting from this RFQ and why it is required (if the required change is unacceptable to PERF, the Respondent's proposal may be considered unacceptable), or the Respondent should indicate that the change is desired (but not required) in any contract resulting from this RFQ.

#### 4.3.6 PERF will not agree with any term or condition of a contract that:

1. Requires that suit be brought in any state other than Indiana or requires that the contract be construed in accordance with the laws of any state other than Indiana. Indiana Code Section 34-13-2-3(d) specifically provides that the State's consent to be sued on contract claims shall not be construed as a waiver of the State's Eleventh Amendment rights, as consent to be sued in federal court, or in any state court beyond the boundaries of Indiana.
2. Requires PERF to provide indemnity or hold a contractor harmless. The Indiana Constitution, Article X section 3, provides that no money shall be drawn from the Treasury, but in pursuance of appropriations made by law. An agreement by PERF to find a future indemnity is in essence committing money to be drawn from the Treasury without appropriation. Moreover, such an agreement might be viewed as waiving the provisions of the Indiana Tort Claims Act.
3. Requires PERF to provide insurance except as permitted by IC 4-13-1-17(b) or section 34-13-3-20(b).
4. Requires PERF to pay a retainer or make a deposit not specifically permitted by IC 4-13-2-20 or 4-20.5-5-7.
5. Requires PERF to pay penalties, liquidated damages, interest, or attorney fees except as permitted by IC 5-17-5 and IC 34-54-8.
6. Requires limiting disclosure of the contract in violation of Indiana's Access to Public Records Act.
7. Requires PERF to pay taxes, as PERF is tax exempt.
8. Requires mandatory resolution of disputes other than through the courts.
9. Requires modifying the statute of limitations or relating time within which a claim must be made.
10. Any provision that attempts to apply comparative fault principles in an action between parties. Indiana Code Section 34-51-2-2 provides that comparative fault principles do not apply in any manner to tort claims against governmental entities or public employees under IC 34-13-3.

#### 4.3.8 References

The respondent should include a list of at least three (3) clients for whom the respondent has provided products and services that are the same or similar to those products and services requested in this RFQ. Any state government or pension fund for whom the respondent has provided these products and services should be included; also to be included should be clients with locations near Indianapolis, as site visits may be arranged. Information provided should include the name, address, and telephone number of the client facility and the name, title, e-mail address, and phone/fax numbers of a person who may be contacted for further information. A form is included within this RFQ document to provide information requested.

#### 4.3.9 Registration to do Business

Respondents proposing to provide services required by this RFQ are required to be registered to do business within the state by the Indiana Secretary of State. The address contact information for this office may be found in Section 1.11 of this RFQ. This process must be concluded prior to contract negotiations with PERF. It is the successful respondent's responsibility to complete the required registration with the Secretary of State. The respondent must indicate the status of registration, if applicable, in this section of the proposal.

#### 4.3.10 Subcontractors

The respondent must list any subcontractors that are proposed to be used in providing the required services. The subcontractor's responsibilities under the proposal, the subcontractor's form of organization, and an indication from the subcontractor of a willingness to carry out these responsibilities are to be included for each subcontractor. This assurance in no way relieves the respondent of any responsibilities in responding to this RFQ or in completing the commitments documented in the proposal.

#### 4.3.11 Financial Statements

This section must include the respondent's financial statements, including an income statement and balance sheet for each of the two most recently completed fiscal years.

#### 4.3.12 Minority Business Development

The contract goal is that at least five percent (5%) of state professional services contracts be with minority and women business enterprises as defined in IC 4-13-16.5. This goal is established under in IC 4-13-16.5-2 (f) (7). It is the intent of the Funds to meet or exceed the five percent (5%) minority and women's business enterprise participation goal.

Participation does not need to be only through subcontractors, but can also be through second-tier participation with common suppliers (office supplies, courier services, accounting services, janitorial services, etc.). Include only the proportion of those contracts which pertain to the bid being submitted. A form is included within this RFQ document to provide information regarding subcontractor MBE/WBE participation.

#### 4.3.13 Americans with Disabilities Act

The respondent must certify and agree to comply with the provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.* and 47 U.S.C. 225).

#### 4.3.14 Compliance with Ethics Provision

Any firm engaged to serve as legal counsel for the functions described in the RFQ will be required to certify that each member of the firm that interacts with State employees is aware of and shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code §4-2-6 *et seq.*, the regulations promulgated thereunder, and Executive Order 05-12, dated January 10, 2005.

If you are not familiar with these ethical requirements, you should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at [www.in.gov/ethics](http://www.in.gov/ethics). Any violation of these standards by a member of your firm may result in PERF (in its sole discretion) terminating your firm's engagement immediately.

#### 4.3.15 Compensation for Services

The Respondent must describe the proposed method of compensation for the services, including expense reimbursement that would be involved in performing the legal functions described in Exhibit A, Scope of Work. Although the fee proposal will not be a dispositive criterion in the selection process, the PERF Board is interested in understanding the extent to which your firm would be willing to offer special discounted rates, a fixed fee arrangement, or other "fee for service" structure in connection with providing the services. Please also detail the factors that would be used to compute fees, and provide hourly billing rates for the proposed members of the team.

### 4.4 QUESTIONNAIRE

The Respondent must complete and provide a response to Exhibit B, Questionnaire.

### 4.5 REQUIRED DOCUMENTS

The Respondent will represent and warrant to PERF in its proposal to the best of the Respondent's knowledge:

1. Does not have a significant financial interest in a vendor with whom PERF is under contract;
2. Has adequate staffing, appropriately trained to perform all services outlined herein in a timely manner;
3. Understands that PERF will request a background security check of all employees conducting work on PERF's premises; and that those costs are the responsibility of the respondent;
4. Has completed and included with the response the following forms:
  - Reference List
  - Minority & Women's Business Enterprises RFQ Subcontractor Commitment Form
  - Indiana Economic Impact Statement
  - Application For Certificate Of Authority Of A Foreign Corporation (If Applicable)

- Taxpayer Identification Number Request (State Form 23743)

## **SECTION FIVE PROPOSAL EVALUATION**

PERF has selected a group of qualified personnel to act as an evaluation team. The procedure for evaluating the responses against the evaluation criteria will be as follows:

1. Each response will be evaluated on the basis of the criteria listed below.
2. Based on the results of the evaluation, the proposal determined to be most advantageous to PERF, taking into account all of the evaluation factors, may be selected by PERF for further engagements.
3. In addition, the evaluation team will consider other factors they believe to be material for this selection.

Proposals will be evaluated based upon the proven ability of the respondent to satisfy the requirements in an efficient, cost-effective manner, taking into account quality of service with minimal tolerance for error. Specific criteria include:

1. Fulfilling the requirements set forth in the RFQ;
2. Experience in the field of legal services related to alternative investments for public and private pension funds;
3. Competitiveness of the fee structure relative to other Respondents; and
4. Quality, timeliness, and thoroughness of Respondent's submission to this RFQ.

All proposals will be reviewed by members of PERF. Subject matter consultants may be invited to participate in an advisory capacity during the evaluation process. References may be contacted. It is possible that finalists will be interviewed by persons participating in the selection process.



## REFERENCE LIST

List similar projects, with completion dates. Attach additional sheets if necessary.

Project Location: _____
Name of Contact Person: _____ Telephone: _____
Email Address of Contact Person: _____
Project Description: _____
Dates Worked: _____

Project Location: _____
Name of Contact Person: _____ Telephone: _____
Email Address of Contact Person: _____
Project Description: _____
Dates Worked: _____

Project Location: _____
Name of Contact Person: _____ Telephone: _____
Email Address of Contact Person: _____
Project Description: _____
Dates Worked: _____

## **MINORITY & WOMEN'S BUSINESS ENTERPRISES RFQ SUBCONTRACTOR COMMITMENT FORM**

In accordance with 25 IAC 5-5, the respondent is expected to submit with its proposal a MWBE Subcontractor Commitment Form. The Form is used to show that there are, participating in the proposed contract, Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) listed in the Minority and Women's Business Enterprises Division (MWBED) directory of certified firms located at [www.buyindiana.in.gov](http://www.buyindiana.in.gov).

If participation is met through use of vendors who supply products and/or services directly to the Respondent, the Respondent must provide a description of products and/or services provided that are directly related to this proposal and the cost of direct supplies for this proposal. Respondents must complete the Subcontractor Commitment Form in its entirety.

Failure to meet these goals may affect the evaluation of your Proposal. PERF reserves the right to verify all information included on the MWBE Subcontractor Commitment Form.

Respondents are encouraged to contact and work with MWBED at 317-232-3061 to design a subcontractor commitment to meet established goals as referenced in this solicitation.

**Prime Contractors must ensure that the proposed subcontractors meet the following criteria:**

- Must be listed on the IDOA Directory of Certified Firms found at [www.buyindiana.in.gov](http://www.buyindiana.in.gov).
- Each firm may only serve as once classification – MBE or WBE
- Must serve a commercially useful function. The firm must serve a value-added purpose on the engagement.
- Must provide goods or service only in the industry area for which it is certified as listed in the directory at [www.buyindiana.in.gov](http://www.buyindiana.in.gov)
- Must be used to provide the goods or services specific to the contract
- National Diversity Plans are generally not acceptable

### **MINORITY & WOMEN'S BUSINESS ENTERPRISES RFQ SUBCONTRACTOR LETTER OF COMMITMENT**

A signed letter(s), on company letterhead, from the MBE and/or WBE must accompany the MWBE Subcontractor Commitment Form. Each letter shall state and will serve as acknowledgement from the MBE and/or WBE of its subcontract amount, a description of products and/or services to be provided on this project, and approximate date the subcontractor will perform work on this contract. PERF may deny consideration for this participation during evaluation if the letter(s) is attached, not on company letterhead, not signed and/or does not reference and match the subcontract amount and the anticipated period that the Subcontractor will perform work for this solicitation.

Questions involving the regulations governing the MWBE Subcontractor Commitment Form should be directed to: Minority and Women's Business Enterprises Division at (317) 232-3061 or [mwbe@idoa.in.gov](mailto:mwbe@idoa.in.gov).

**PERF MBE/WBE SUBCONTRACTOR COMMITMENT FORM**

**RFQ#**

**DUE DATE:**

**TOTAL BID AMOUNT:**

<input type="checkbox"/> MBE Firm <input type="checkbox"/> WBE Firm			
Company Name:		Contact Person:	
Address:		E-mail:	
		Telephone Number: (    )	Fax Number: (    )
Sub-Contract Amount:		Describe service/product to be provided:	
Sub-Contract Percentage of Total Bid:			
Provide approximate dates when Sub-Contractor will perform on this project:			

<input type="checkbox"/> MBE Firm <input type="checkbox"/> WBE Firm			
Company Name:		Contact Person:	
Address:		E-mail:	
		Telephone Number: (    )	Fax Number: (    )
Sub-Contract Amount:		Describe service/product to be provided:	
Sub-Contract Percentage of Total Bid:			
Provide approximate dates when Sub-Contractor will perform on this project:			

\_\_\_\_\_  
**Respondent Firm**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**City/State/Zip Code**

\_\_\_\_\_  
**Representative**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Telephone Number**

\_\_\_\_\_  
**Fax Number**

\_\_\_\_\_  
**Email Address**

\_\_\_\_\_  
**Authorizing Signature**

\_\_\_\_\_  
**Printed Name and Title**

## INDIANA ECONOMIC IMPACT STATEMENT



### INDIANA ECONOMIC IMPACT - PROPOSALS AND CONTRACTS

State Form 51778 (R5 / 3-06)  
DEPARTMENT OF ADMINISTRATION  
Approved by State Board of Accounts, 2006

This information is required by the Indiana Department of Administration for all contractors, vendors/suppliers to the State of Indiana (complete all 22 items).

1	Legal Name of firm:	
2	Address/City/State/Zip Code:	
3	Telephone #/Fax #/Website:	
4	Federal Tax Identification Number:	
5	State/Country of domicile/incorporation:	
6	Location of firm's headquarters or principal place of business:	
7	Name of parent company or holding company (if applicable):	
8	State/Country of domicile/incorporation of company listed in #7:	
9	Address of company listed in #7:	
10	IN Department of Workforce Development (DWD) account number:	
11	IN Department of Revenue (DOR) account number:	
12	Number of Indiana resident employees per most recently completed IRS Form W-2 distribution:	
13	Total number of employees per most recently completed IRS Form W-2 distribution:	
14	Total amount of payroll paid to Indiana resident employees per most recently completed IRS Form W-2 distribution:	
15	Total amount of payroll paid to all employees per the most recently completed IRS Form W-2 distribution:	
16	Total amount of this proposal, bid, or current contract:	

# **ACCOUNTING OF INDIANA RESIDENT EMPLOYEES**

17	<b><u>Prime Contractor Company</u></b> <b>Name:</b>	
18	<b><u>Number of Full Time Equivalent (FTE) employees</u></b> that are Indiana residents specifically for this proposal or contract:	

19	<b><u>Subcontractor Company</u></b> <b>Name:</b>				
20	Address/Contact Person/Telephone Number/Tax ID Number:				
21	<b><u>Number of Full Time Equivalent (FTE) employees</u></b> that are Indiana residents specifically for this proposal or contract:				

22	<b><u>Affirmation by authorized official:</u></b> I affirm under penalties of perjury that the foregoing representations are true to be the best of my knowledge and belief.				
	Signature:				
	Name of auththorized official:				
	Title:				
	Date:				

## TAXPAYER IDENTIFICATION NUMBER REQUEST

**Purpose of form:** We are required to file an information return with the IRS and must get your correct taxpayer identification number (TIN) to report our payments to you.

Use Form W-9 on the reverse side, if you are a U.S. person (including a U.S. resident alien), to give us your correct TIN and, when applicable to:

1. Certify the TIN you are giving is correct.
2. Certify you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are an exempt payee.

If you do not provide us with the information, your payments may be subject to 31% federal income tax backup withholding. Also, if you do not provide us with information, you may be subject to a \$50.00 penalty imposed by the Internal Revenue Service per I.R.C. 6723.

Federal law on backup withholding preempts any state and local law remedies, such as any rights to a mechanic's lien. If you do not furnish a valid TIN, or if you are subject to backup withholding, the payer is required to withhold 31% of its payment to you. Backup withholding is not a failure to pay you. It is advance tax payment. You should report all backup withholding as a credit for taxes on your federal income tax return.

**Specific Instructions:** Enter your legal name on that line. Your legal name is the one that appears on your Social Security Card or Employer Identification Number if a business. If you are a sole proprietor, then your legal name is the business owner's name. If you have a "doing business as" (d/b/a) name, enter on the trade line. Enter your remit address on the next line, and if you have a separate address for purchase orders, enter that address on the appropriate line.

Next, select the organization type for your name, check the box, and record the appropriate taxpayer identification number (TIN) in the space provided. Notice that individuals and sole proprietors are the only types with a social security number. If you are a corporation or an exempt 501(a) organization, you must answer yes or no on legal and medical services. If you are sole proprietor you must show the business owner's name in the legal box, and the business name in the trade name box. You cannot use only the business name. For the TIN, you may use either the individual's SSN or the employer identification number (EIN) of the business. However, the IRS prefers that you show the SSN.

Finally, complete the certification section, sign and date the form.

If you are a foreign person, use the appropriate Form W-8.

Substitute Form  
State Form 23743 (R 07/01)

Approved by State Board of Accounts 2001  
Approved by Auditor of State 2001

### Taxpayer Identification Number Request

State of Indiana

**W-9**

DO NOT send to IRS

Print or Type	Return to address below
<b>Legal Name</b> (OWNER OF THE EIN OR SSN AS NAME APPEARS ON IRS OR SSN RECORDS) DO NOT ENTER THE BUSINESS NAME OF A SOLE PROPRIETORSHIP ON THIS LINE	
<b>Trade Name</b> Complete only if doing business as (D/B/A)	
<b>Remit Address</b>	
<b>Purchase Order Address-Optional</b>	
Check legal entity type and enter 9 digit taxpayer identification Number (TIN) below: (SSN = Social Security Number, EIN = Employer Identification Number)	SSN or EIN must be for legal name above

- ☐ **Individual** (Individual's SSN) \_\_\_\_\_  
☐ Sole Proprietorship (Owner's SSN or Business EIN) SSN \_\_\_\_\_  
EIN \_\_\_\_\_  
☐ Partnership ☐ General ☐ Limited (Partnership's EIN) \_\_\_\_\_  
☐ Estate/Trust (Legal Entity's EIN) \_\_\_\_\_  
Note: Show the name and number of legal trust, or estate, not personal representatives
- ☐ Other (Limited Liability Company, Joint Venture, Club, ect) (Legal Entity's EIN) \_\_\_\_\_
- ☐ Corporation Do you provide legal or medical serv. ☐ Yes ☐ No (Corp's EIN) \_\_\_\_\_
- ☐ Government (or Government operated entity) (Entity's EIN) \_\_\_\_\_
- ☐ Organization Exempt from Tax under Section 501(a)  
Do you provide medical services? ☐ Yes ☐ No (Org's EIN) \_\_\_\_\_
- ☐ Check here if you do not have a SSN or EIN but have applied for one.

Under Penalties of prejury, I certify that:

- (1) The number listed on this form is my correct Taxpayer Identification Number (Or I am waiting for a number to be issued to me) AND  
(2) I am not subject to backup withholding because: (a) I am exempt from the backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (C) the IRS has notified me that I am no longer subject to backup withholding (does not apply to real estate transactions, mortgage interest paid, and acquisition or abandonment of secured property, contribution to an individual retirement arrangement (IRA), and payments other than interest and dividends.)  
CERTIFICATION INSTRUCTIONS- You must cross out item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return.

**THE IRS DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISION OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.**

I am a U.S. person (including a U.S. resident alien)

Name (Print or Type)	_____	Title	_____
AUTHORIZED SIGNATURE	_____	Date	_____
		Phone	_____

Agency \_\_\_\_\_ Agency use only ☐ Yes ☐ No Approved by \_\_\_\_\_  
1099

**REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION**

# APPLICATION FOR CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION



## APPLICATION FOR CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION

State Form 38784 (R9/ 12-02) Corporate Form 112  
Approved By State Board Of Accounts, 1995

TODD ROKITA  
SECRETARY OF STATE  
CORPORATIONS DIVISION  
302 W. Washington St., Rm. E018  
Indianapolis, IN 46204  
Telephone: (317) 232-6576

Indiana Code 23-1-49-1 et seq.  
23-1-49-3

**Filing Fee: \$90.00**

### NOTES:

1. An Original Certificate of Existence duly authenticated by the proper authority from corporation's domiciliary state within the last sixty (60) days must be submitted with this application.
2. A Registered Agent with an Indiana street address (not a PO BOX) must be listed in ARTICLE III.

### INSTRUCTIONS:

- Use 8 1/2" x 11" white paper for attachments.
- Present original and one copy to address in the upper right corner of this form.
- Please TYPE or PRINT.
- Please visit our office on the web at [www.sos.in.gov](http://www.sos.in.gov).

## APPLICATION FOR CERTIFICATE OF AUTHORITY OF

### A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF INDIANA

The undersigned officer of the above corporation which was formed as:

☐ A general business corporation

☐ A professional corporation

desiring to effectuate the admittance of the Corporation to transact business in the State of Indiana, certifies the following facts:

#### ARTICLE I: Name

Name of Corporation ( Must be identical to name shown in Articles of Incorporation and Amendments thereto)

#### ARTICLE II: Address of Corporation

Address of the principal office of corporation (Number and street, city, state and ZIP code)

#### ARTICLE III: Registered Office and Registered Agent

Name of the Registered Agent of the corporation (cannot be the corporation itself)

Indiana address of the registered office of corporation (Number and street, city; P.O. Box not accepted)

INDIANA

ZIP code

#### ARTICLE IV: Date and State of Incorporation and Duration of Existence

Date of incorporation in domiciliary state:

State of incorporation

Expected period of duration listed in the Articles of Incorporation (perpetual, term of years or date certain e.g. December 31, 2050)

#### ARTICLE V: Corporate Officers

The names and business addresses of the officers of the Corporation:

Name	Title	Address (Number, street, city, state and ZIP code)



**EXHIBIT A**  
**SCOPE OF WORK**

The law firm(s) selected by PERF shall, on an as-needed basis, provide legal services including, but not limited to, the following:

1. Providing review and analysis of legal issues related to PERF's alternative investments allocation. Such review shall include examination and negotiation of limited partnership agreements (or similar agreements) and related documentation relative to investments in the areas of private equity, real estate, absolute return, and commodities. This review shall also include analysis of key terms that impact the financial results and overall performance of the partnership, as well as analysis of the provisions that pose the greatest risks. The selected firm must have direct experience with both international and domestic private equity structures.
2. Working with the Fund and its Executive Director and staff in performing such other tasks and assuming such other responsibilities as are required and requested by the PERF Board and Executive Director consistent with this Scope of Work.

**EXHIBIT B**  
**QUESTIONNAIRE**

The following questionnaire must be completed and included with the Response. The questionnaire has been prepared to obtain responses relative to the Respondent's capability to successfully provide the required legal services.

- 1) Provide a general description of your firm, its primary areas of concentration, and any other relevant descriptive information.
- 2) Describe the ownership structure of your firm.
- 3) Provide biographies and describe the professional and legal experience for the functions described in Exhibit A, Scope of Work, of the key individuals who would be assigned to provide legal services to PERF.
- 4) List up to three public employee retirement system or corporate pension plan clients (not including PERF) for whom the firm has provided legal services related to alternative investments within the past five years. One of the referenced clients must be a client who has been serviced by the proposed team. For each reference listed, include client name, address, telephone number, and name of a contact person.
- 5) Does your firm have a written code of conduct or ethics in addition to the American Bar Association and state codes?
- 6) Describe how your firm uses non-legal or non-attorney professional staff in performing the services described in this RFQ.
- 7) How does your firm measure value for your clients?
- 8) Does your firm provide any services that result in compensation from investment managers, investment consultants or private equity firms? If so, describe in detail.
- 9) Provide a sample comment memo that summarizes the review of a standard private equity partnership agreement.
- 10) Provide a checklist of key issues or a sample work plan of the steps undertaken in negotiating particular terms; and/or example of successes in negotiating key issues.
- 11) Estimate the amount of time it takes to review a partnership agreement and related documentation and the extent to which associate-level attorneys are used.
- 12) Outside of the scope of work in Exhibit A, describe any additional services your firm would bring to PERF.

**EXHIBIT C**  
**CONTRACT FOR SERVICES**



**CONTRACT #: (CONTRACT NUMBER)**  
**(VENDOR NAME)**  
**FOR**  
**(SERVICES)**

## CONTRACT FOR SERVICES

This contract is between the Indiana Public Employees' Retirement Fund (hereinafter referred to as "PERF" or "Fund") and \_\_\_\_\_ (hereinafter referred to as "Contractor").

WHEREAS, the Fund desires to contract for services in the area of \_\_\_\_\_; and

WHEREAS, Contractor is willing to provide such services;

NOW, THEREFORE, the above-named parties enter into this contract upon the following terms and conditions:

1. Duties of Contractor

The Contractor shall provide the following services relative to this contract: See Attachment A, Scope of Services, incorporated by reference.

2. Consideration

The Contractor will be paid at the rate of: See Attachment B, Fees, incorporated by reference.

3. Term

The contract shall commence on \_\_\_\_\_ and shall terminate on \_\_\_\_\_.

*Alternative language: The contract shall commence upon date of execution by the Fund for a period of one (1) year. This contract may be renewed under the same terms and conditions by mutual agreement of the parties for up to \_\_\_\_\_ ( ) one-year terms.*

4. Access to Records (MANDATORY)

The Contractor and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the cost incurred, and shall make such materials available at their respective offices at all reasonable times during the contract period and for seven (7) years from the date of final payment under this contract for inspection by the Fund or by any other authorized representative of the Fund, and copies thereof shall be furnished at no cost to the Fund if requested.

Upon execution of this contract, Fund will provide Contractor with a list of Authorized Persons who will be permitted to advise, inform, and direct Contractor on Fund's behalf, together with signature specimens of certain Authorized Persons who may execute specific tasks under this contract. The list of Authorized Persons and any changes to such list shall be made in writing to Contractor and signed by the Fund's Director or the Director's designee. Until notified of any such change, Contractor may rely on and act upon instructions and notices received from an Authorized Person identified on the then-current list furnished by the Fund.

All Authorized Instructions shall be in writing and transmitted by first class mail, private express courier, facsimile, or other authenticated electronic transmissions; *provided, however*, that Contractor may, in its discretion, accept verbal Authorized Instructions subject to written confirmation of same from such Authorized Person. Such Authorized Instructions shall bind Contractor upon receipt. If Contractor receives

instructions or notices from a source other than an Authorized Person, Contractor shall not comply with them and shall immediately notify the Fund's Executive Director in writing of such unauthorized instructions or notices.

5. Assignment (MANDATORY)

The Contractor shall not assign or subcontract the whole or any part of this contract without the Fund's prior written consent, except that the Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the Fund, provided that Contractor gives written notice (including evidence of such assignment) to the Fund thirty (30) days in advance of any payment so assigned. Assignment shall cover all unpaid amounts under this contract and shall not be made to more than one party.

6. Successors and Assignees (MANDATORY)

The Contractor binds his successors, executors, administrators, and assignees to all covenants of this contract. Except as above set forth, the Contractor shall not assign, sublet, or transfer interest in this contract without the prior written consent of the Fund.

7. Audit and Audit Settlement (MANDATORY)

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, et. seq. and audit guidelines specified by the Fund. If an error is discovered as a result of an audit performed by Contractor or Fund, or if Contractor becomes aware of any error through any other means, Contractor shall use its best efforts to promptly correct such error or to cause the appropriate party to correct such error.

8. Changes in Work (MANDATORY)

In the event the Fund requires a major change in scope, character, or complexity of the work after the work has progressed, adjustments in compensation to the Contractor shall be determined by the Fund in the exercise of its honest and reasonable judgment, and the Contractor shall not commence any additional work or change the scope of work until authorized in writing by the Fund. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

9. Compliance with Laws (MANDATORY)

The Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations or ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this contract shall be reviewed by the Fund and the Contractor to determine whether any provisions of this contract require formal amendment.

10. Confidentiality of Fund Information (MANDATORY)

The Contractor understands and agrees that data, materials, and information disclosed to Contractor contain confidential and protected data; therefore, the Contractor promises and assures that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this contract, will be

treated as confidential and will not be disclosed to others or discussed with other parties without the prior written consent of the Fund.

11. Confidentiality of Data, Property Rights in Products, and Copyright Prohibition (MANDATORY)

The Contractor agrees that all information, data, findings, recommendations, proposals, etc., by whatever name described and by whatever form therein, secured, developed, written, or produced by the Contractor in furtherance of this contract shall be the property of the Fund, and the Contractor shall take such action as is necessary under law to preserve such property rights in and of the Fund while such property is within the control and/or custody of the Contractor. By this contract, the Contractor specifically waives and/or releases to the Fund any cognizable property right of the Contractor to copyright, license, patent, or otherwise use such information, data, findings, recommendations, proposals, etc.

12. Ownership of Documents and Materials (MANDATORY)

All documents, records, programs, data, film, tape, articles, memos, and other materials developed under this contract shall be considered "work for hire," and the Contractor transfers any ownership claim to the Fund and all such matters will be the property of the Fund. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the Fund, is prohibited. During the performance of the services specified herein, the Contractor shall be responsible for any loss or damage to these materials developed for or supplied by the Fund and used to develop or assist in the services provided herein while they are in the possession of the Contractor, and any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate, and unrestricted access to the work product of the Contractor during the term of this contract shall be available to the Fund.

13. Conflict of Interest (MANDATORY)

A. Conflict of interest, as defined in this section:

"Immediate family" means the spouse and the unemancipated children of an individual.

"Interested party," means:

- a. The individual executing this Contract;
- b. An individual who has an interest of three percent (3%) or more of the Contractor, if the Contractor is not an individual; or
- c. Any member of the immediate family of an individual specified under subdivision a. or b.

"Fund" means the Indiana Public Employees' Retirement Fund.

"Commission" means the State Ethics Commission.

B. The Fund may cancel this Contract without recourse by the Contractor if any interested party is, or becomes, an employee of the Fund or the state of Indiana.

C. The Fund will not exercise its right of cancellation under section B, above, if the Contractor gives the Fund an opinion by the Commission indicating that the existence of this Contract and the employment by the Fund of the interested party does not violate any statute or rule relating to ethical conduct of Fund employees. The Fund may take action, including cancellation of this Contract, consistent with an opinion of the Commission obtained under this section.

- D. The Contractor has an affirmative obligation under this Contract to disclose to the Fund when an interested party is or becomes an employee of the Fund. The obligation under this section extends only to those facts that the Contractor knows or reasonably could know.

14. Debarment and Suspension (MANDATORY)

The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the Fund if any subcontractor becomes debarred or suspended, and shall, at the Fund's request, take all steps required by the Fund to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Disputes (MANDATORY)

Should any disputes arise with respect to this contract, the Contractor and the Fund agree to act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this contract which are not affected by the dispute. Should the Contractor fail to continue without delay to perform its responsibilities under this contract in the accomplishment of all non-disputed work, any additional costs incurred by the Contractor or the Fund as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the Fund or the State of Indiana for such costs.

The Fund may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the Fund to the Contractor of one or more invoices not in dispute in accordance with the terms of this contract will not be cause for Contractor to terminate this contract, and the Contractor may bring suit to collect without following the dispute procedure contained herein. This section shall not be construed to limit the right of either party to terminate the contract pursuant to the terms of the "Termination" section of the contract.

16. Maintaining a Drug-Free Workplace (MANDATORY)

a. Contractor hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this contract a drug-free workplace, and that it will give written notice to the Fund within ten (10) days after receiving actual notice that an employee of Contractor has been convicted of a criminal drug violation occurring in Contractor's workplace.

b. In addition to the provisions of subparagraph a. above, if the total contract amount set forth in this contract is in excess of \$25,000.00, Contractor hereby further agrees that this contract is expressly subject

to the terms, conditions, and representations contained in the Drug-Free Workplace Certification executed by Contractor in conjunction with this contract.

c. It is further expressly agreed that the failure of Contractor to in good faith comply with the terms of subparagraph a. above, or falsifying or otherwise violating the terms of the certification referenced in subparagraph b. above, shall constitute a material breach of this contract, and shall entitle the Fund to impose sanctions against the Contractor including, but not limited to, suspension of contract payments, termination of this contract and/or debarment of the Contractor from doing further business with the Fund for up to three (3) years.

#### 17. Drug-Free Workplace Certification (MANDATORY)

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Fund is requiring the inclusion of this certification in all contracts with and grants from the PERF in excess of \$25,000. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the Fund for up to three (3) years.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

a. Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

b. Establishing a drug-free awareness program to inform employees that (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

c. Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

d. Notifying in writing the Fund within ten (10) days after receiving notice from an employee under subdivision (c)(2) above, or otherwise receiving actual notice of such conviction;

e. Within thirty (30) days after receiving notice under subdivision (c)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

f. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

#### 18. Force Majeure; Suspension and Termination (MANDATORY)

In the event that either party is unable to perform any of its obligations under this contract or to enjoy



any of its benefits because of (or if failure to perform the services is caused by) natural disaster, actions or decrees of governmental bodies, or communication line failure not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance.

19. Governing Laws (MANDATORY)

This contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

20. Indemnification (MANDATORY)

Contractor agrees to indemnify, defend, and hold harmless the Fund and the State of Indiana, their agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses arising from or related to any act of bad faith, negligence, intentional or willful misconduct, breach of fiduciary duty, or any other negligent act or omission of Contractor and/or its agents, if any, in the performance of this contract. The Fund shall not provide such indemnification to Contractor.

21. Information Technology Enterprise Architecture Requirements (MANDATORY)

If the Contractor provides any information technology related products or services to the Fund, the Contractor shall comply with all IOT standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the Fund shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT and the Fund in advance. The Fund may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

22. Insurance (MANDATORY)

Without limiting the indemnification obligations provided in this contract, for the duration of this contract, Contractor shall provide and maintain, at its own expense, the following insurance policies:  
\_\_\_\_\_.

23. Key Person(s) (MANDATORY)

In the event that both parties have designated in an appendix that the individual(s) therein named are essential to the services offered pursuant to this contract, the parties agree that in the event that such individual or individuals are no longer employed during the term of this contract by the Contractor for whatever reason, the Fund shall have the right to terminate this contract, without penalty, upon thirty (30) days prior written notice.

In the event that the Contractor is an individual or a closely held corporation (as defined under Indiana law, *see, e.g., Barth v. Barth*, 659 N.E.2d 559, 561, fn.5, [and cited authority therein]), the individual or person on behalf of the corporation responsible for primary contact between the Contractor and the Fund at the commencement of this contract shall be considered a key person and, as such, essential to the contract.

Substitution of another for the Contractor shall not be permitted without express written permission from the Fund.

Nothing in this Section should be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

24. Licensing Standards (MANDATORY)

The Contractor and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The Fund shall not be required to pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, or if disciplinary action is taken against the applicable licensure, certification or accreditation, the Contractor shall notify the Fund immediately and the Fund, at its option, may immediately terminate this Contract.

25. Merger & Modification (MANDATORY)

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

26. Minority and Women's Business Enterprise Compliance (MANDATORY)

The Contractor agrees to comply fully with the provisions of the Contractor's MBE/WBE participation plans, and agrees to comply with all Minority and Women's Business Enterprise statutory and administrative code requirements and obligations, including IC 4-13-16.5 and 25 IAC 5. The Contractor further agrees to cooperate fully with the Minority and Women's Business Enterprise division to facilitate the promotion, monitoring, and enforcement of the policies and goals of MBE/WBE program including any and all assessments, compliance reviews, and audits that may be required.

27. Nondiscrimination (MANDATORY)

Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract. Acceptance of this contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

28. Notice to Parties (MANDATORY)

Whenever any notice, statement, or other communication shall be sent to the Fund or Contractor, it shall be sent to the following address, unless otherwise specifically advised.

Notices to the Fund shall be sent to:

Terren B. Magid, Executive Director  
Public Employees' Retirement Fund  
500 Harrison Building  
143 West Market Street  
Indianapolis, IN 46204

Notices to the Contractor shall be sent to:

(Vendor Information)

29. Funding Cancellation (MANDATORY)

When the Board makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Board of Trustees that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

30. Condition of Payment (MANDATORY)

All services provided by the Contractor under this Contract must be performed to the Fund's reasonable satisfaction, as determined at the discretion of the Fund and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The Fund shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

31. Payments (MANDATORY)

All payment obligations shall be made in arrears, net 30 in accordance with Indiana law and the Fund's fiscal policies and procedures. See Attachment B, Fees, incorporated by reference.

32. Penalties/Interest/Attorney's Fees (MANDATORY)

The Fund will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law.

33. Progress Reports (MANDATORY)

The Contractor shall submit reports to the Fund upon request, but in no event less than as of each month end. The reports shall be written and in a form agreed to between the Fund and Contractor. At Fund's request and at mutually agreed upon times, Contractor shall meet with the Fund to review Contractor's performance. Contractor shall be available to answer questions by Fund staff and Board members from time to time as needed without additional charge.

34. Severability (MANDATORY)

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

35. Substantial Performance (MANDATORY)

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

36. Taxes (MANDATORY)

The Fund is exempt from federal, state, and local taxes. The Fund will not be responsible for any taxes levied on the Contractor as a result of this contract.

37. Termination (MANDATORY)

Notwithstanding anything to the contrary, this contract may be terminated by the Fund, in whole or in part, for any reason, by delivery of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services rendered prior to the effective date of termination. The Fund will not be liable for services performed after termination. The Contractor shall be compensated for services herein provided, but in no case shall total payment made to Contractor exceed the original contract price. In no event shall Fund's termination of the contract under this section be deemed a waiver of Fund's right to make a claim against Contractor for damages resulting from any default by Contractor which occurred prior to the termination effective date. Additionally, the Fund may terminate this contract immediately in the event that the Fund, in its sole discretion, considers such action necessary to protect the plan or assets in the trust.

In the event of any termination of this contract, all terms and conditions herein shall continue to apply through the termination effective date and through any period following such date during which Contractor shall continue to perform the services required under this contract, in order to complete any transactions pending on the termination effective date and to facilitate an orderly transition to a successor Contractor ("Transition Period"). Such Transition Period shall not exceed thirty (30) days after the termination effective date. If Fund terminates this contract, and unless otherwise expressly directed by Fund, Contractor shall take all necessary steps to stop services under this contract on the termination effective date.

Upon any termination of this contract by Fund and to the extent directed by Fund, Contractor shall continue to serve as a Contractor hereunder at the then-existing compensation level for the duration of the Transition Period. After the additional services have been performed, and the Transition Period is completed, Contractor may seek compensation for the Transition Period at its then-existing compensation level. Contractor shall cooperate with Fund in good faith to effect a smooth and orderly transfer of such services and all applicable records by the termination effective date. Upon termination of this contract, Contractor shall retain all Fund records in accordance with the record retention provisions set forth in the Access to Records section of this contract.

38. Travel (MANDATORY)

No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Contractor for approved travel will be reimbursed at the current rate paid by the Fund and in accordance with the Fund Travel Policies and Procedures. Out-of-state travel requests must be reviewed by the Fund for availability of funds and for appropriateness.

39. Work Standards (MANDATORY)

The Contractor agrees to execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the Fund becomes dissatisfied with the work product or the working relationship with those individuals assigned to work on this contract, the Fund may request in writing the replacement of any or all such individuals. All services provided by the Contractor under this Contract must be performed to the Fund's reasonable satisfaction, as determined at the discretion of the undersigned PERF representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. PERF shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

40. Background Investigations (MANDATORY)

All employees of Contractor who require access to the Fund's building at 143 West Market, Indianapolis, Indiana, or the Fund's confidential information shall be subject to the following personal background investigations: (i) Indiana State Police criminal history background check; (ii) Federal Bureau of Investigation fingerprint check; and (iii) Indiana Department of Revenue tax liabilities check. The Fund shall, in its sole discretion, decide whether the results of such background checks are acceptable. Costs associated with these background checks shall be the sole responsibility of the Contractor.

41. Waiver of Rights (MANDATORY)

No right conferred on either party under this contract shall be deemed waived and no breach of this contract excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

42. Changes (MANDATORY)

Contractor shall notify Fund in writing within three (3) business days of any of the following changes: (1) Contractor becomes aware that any of its representations, warranties, and covenants set forth herein cease to be materially true at any time during the term of this contract; (2) there is any material change in Contractor's senior personnel assigned to perform service under this contract; (3) there is any change in control of Contractor; (4) Contractor becomes aware of any other material change in its business management structure or its business organization, including without limitation the filing for bankruptcy relief.

43. Investigations and Complaints (MANDATORY)

To the extent permitted by applicable law, Contractor shall promptly advise Fund in writing of any extraordinary investigation, examination, complaint, disciplinary action or other proceeding relating to or affecting Contractor's ability to perform its duties under this contract which is commenced by any of the

following: (1) any Attorney General or any regulatory agency of any state of the United States; (2) any U.S. Government department or agency; or (3) any governmental agency regulating business in any country in which Contractor is doing business. Except as otherwise required by law, Fund shall maintain the confidentiality of all such information until investigating entity makes the information public.

44. Ethics Requirement (MANDATORY)

The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the Fund, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Orders 04-08 and 05-12, dated April 27, 2004 and January 10, 2005, respectively. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<[<>>>](http://www.in.gov/ethics/). If the Contractor or its agents violate any applicable ethical standards, PERF may, in its sole discretion, terminate this contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under Indiana Code § 4-2-6-12.

45. Authority to Bind (MANDATORY)

Notwithstanding anything in this contract to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute agreements on its behalf.

46. Non-Collusion and Acceptance (MANDATORY)

The undersigned attests under penalties of perjury that he is the contracting party, or that he is the representative, agent, member or officer of the contracting party, that he has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him, directly or indirectly, to the best of his knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of the agreement.

The parties, having read and with full understanding of the foregoing terms of the contract, do by their respective signatures dated below hereby agree to the terms herein, including, if this contract is in excess of \$25,000, the Drug-Free Workplace Certification.

**CONTRACTOR**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attested By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**PUBLIC EMPLOYEES' RETIREMENT FUND**

\_\_\_\_\_  
Terren B. Magid, Executive Director

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Date

**ATTACHMENT A**  
**SCOPE OF SERVICES**

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**ATTACHMENT B**  
**FEES**

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